

**LICENSING (TAXI AND MISCELLANEOUS) PANEL**

**Date:** 31 July 2013

**Venue:** East Northamptonshire House, Cedar Drive, Thrapston

**Time:** 10.15 am

**Present:** Councillors: -

**Andy Mercer (Chairman)**  
**Richard Gell**

**Pauline Bradberry**

**1. APPOINTMENT OF CHAIRMAN**

**RESOLVED:**

That Councillor Andy Mercer be appointed Chairman for this hearing.

**2. DECLARATIONS OF INTEREST**

No interests were declared.

**3. EXCLUSION OF PUBLIC AND PRESS**

**RESOLVED:**

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under paragraphs 1 and 7 of Schedule 12A of the Local Government Act 1972, may be disclosed.

**4. CONSIDERATION OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE**

The Health Protection Manager reported on an application, received on 19 April 2013, for a Hackney Carriage and Private Hire Driver's Licence under the Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976. Reference was made to the Council's Hackney Carriage and Private Hire Drivers Criminal Records Policy when considering the application.

The applicant had detailed an offence of driving without insurance for which he had stated that he received a 6 month disqualification and costs of £400. The applicant had not given a date for this offence.

The DVLA Data Subject report had revealed an offence dated 9th September 2010 for which the applicant had received a disqualification. The offence code was TT99 which showed disqualification under the 'totting up' procedure. Where the total penalty points reached 12 or more within 3 years, the driver could be disqualified and the DVLA report confirmed that the applicant had been disqualified for a 6 month period.

The Disclosure and Barring Service (DBS) document had revealed that on 11 January 2011 the applicant had been convicted of two offences which had occurred on 22 May 2010. The applicant had been disqualified from driving for 6 months and fined £100, with £200 costs awarded. The DBS stated that the applicant was driving otherwise than in accordance with a licence and using a motor vehicle whilst being uninsured.

The East Northamptonshire Council Criminal Records Policy required a driver to have a period of at least 12 months after the restoration of a licence before an application was considered and required all matters relating to insurance to be determined by the Licensing Panel.

The applicant had written a letter to accompany his application explaining the reasons for the offence.

The applicant addressed the Panel and responded to Members' questions. The applicant confirmed that he had been informed by his friend (who owned the mini-bus he had been driving at the time of the offence) that he was insured to drive the vehicle and he had believed what his friend had told him. The mini-bus could carry up to 15 passengers and the applicant did not hold an appropriate driving licence to drive such a vehicle.

The applicant confirmed that he was not related to, and did not know, the passengers who were travelling in the mini-bus at the time of the offence; that he was driving the vehicle as a favour to a friend and was not doing so as a paid driver. The applicant informed the Panel that he had only driven the mini-bus on one occasion and outlined the circumstances of the journey and the vehicle being stopped by the Police which had led to his conviction.

After considering the officer's report and accompanying documentation, and representations made by the applicant, the Panel retired to consider the application and evidence presented at the hearing, and it was

**RESOLVED:**

The Panel has carefully considered your application for the issue of a Hackney Carriage and Private Hire Drivers Licence. In reaching its decision, the Panel had regard to:

Government Guidance

ENC Hackney Carriage and Private Hire Drivers Criminal Records Policy

ENC Hackney Carriages/Byelaws (Terms and Conditions)

Rehabilitation of Offenders Act 1974

Report from the DVLA

Covering letter from yourself

Report from the Disclosure and Barring Service

Evidence given orally to the Panel

The Local Government (Miscellaneous Provisions) Act 1976.

The Panel has reached the decision to refuse to grant the application. The Panel were not satisfied that the applicant was a fit and proper person as required by Section 51 and Section 59 of the Local Government (Miscellaneous Provisions) Act 1976.

The Panel considered the past offences which were declared on the application form.

The implications of members of the public unknowingly travelling in an uninsured 15 person mini-bus were given considerable weight in the Panel's deliberations. The Panel also gave weight to the fact that the applicant did not have the appropriate driving licence for such a vehicle.

The Panel had particular reference to the ENC Hackney Carriage and Private Hire Drivers Criminal Records Policy, paragraph 4.1.6 *"Convictions with regard to invalid or no insurance will always be relevant and all renewal applications will be determined by the Licensing Panel"*. The Panel did note that 12 months had elapsed since the reinstatement of his driving licence. However the Panel felt that this matter was serious and recent enough to warrant refusal of the application.

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Applicant and any Party that has made representation has the Right to Appeal to the Magistrates Court within 21 days of the Decision Notification letter.

**Chairman**

# LICENSING (TAXI AND MISCELLANEOUS) PANEL

Date: 31 July 2013

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 11.35 am

Present: Councillors: -

Andy Mercer (Chairman)  
Gill Mercer

Pauline Bradberry

## 1. APPOINTMENT OF CHAIRMAN

### RESOLVED:

That Councillor Andy Mercer be appointed Chairman for this hearing.

## 2. DECLARATIONS OF INTEREST

It was noted that Councillor Richard Gell had initially been appointed as a member of this Licensing Panel. However, although not knowing the licensee from the information supplied in the officer's report, Councillor Gell had recognised the licensee by sight and, after receiving advice from the legal advisor to the Panel, had withdrawn from the Panel. Councillor Gell had been replaced on the Panel by another member of the Council's Licensing Committee experienced in conducting Licensing Panel Hearings, Councillor Gill Mercer.

## 3. EXCLUSION OF PUBLIC AND PRESS

### RESOLVED:

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under paragraphs 1, 2 and 3 of Schedule 12A of the Local Government Act 1972, may be disclosed.

## 4. CONSIDERATION OF HACKNEY CARRIAGE LICENCE

It was reported that on 11th February 2013, East Northamptonshire Council's (ENC) Policy and Resources Committee had approved the introduction of a penalty points system regarding enforcement of legislation concerning Hackney Carriage and Private Hire vehicles, drivers and operators. The penalty points system had been implemented from April 2013.

On 1 July 2013 a Hackney Carriage Vehicle had been seen in the District with damage to the nearside of the vehicle. The driver of the vehicle had stated that the damage had been caused in an accident some weeks earlier. The driver was not aware whether the accident had been reported to ENC within 72 hours as required by the penalty points scheme.

This matter had been investigated by ENC's Licensing Officers to ascertain if the accident

damage had been reported and no trace of notification had been found on the vehicle or proprietor's file.

On 2 July 2013 an email had been received from an insurance broker acting on behalf of the vehicle proprietor. This email confirmed that the vehicle had been involved in two accidents in recent months, the first of these accidents had occurred on 25 May 2013 and the second on 12 June 2013. Neither of these accidents had been reported to the Council prior to receiving the email.

The Hackney Carriage Proprietor had been served with a letter informing the Proprietor that six penalty points for each time an accident had not been reported to ENC had been recorded on the Licensing file in accordance with the penalty points scheme. This brought the total number of points issued to this Proprietor since 1 April 2013 to twelve.

The penalty points scheme stipulated that if twelve points were accumulated in a two year period the person to whom they were issued must appear before a Licensing Panel for that Panel to consider further action, if any.

The proprietor informed the Panel that she had become ill a few days before the accidents had occurred and her business partner had continued to run the business in her absence which had lasted several weeks. The Proprietor had not informed her business partner of the recent introduction of the penalty points scheme and the requirement to report accidents under it.

The circumstances of each accident were given to the Panel and both were the subject of insurance claims against the driver of the other vehicle involved. Both accidents had caused superficial damage only. No passengers were travelling in the licenced vehicle at the time of the accidents and the vehicle had undergone a safety check before any fare-paying passengers were carried in it and had been declared safe to use.

The Panel noted that notwithstanding the introduction of the Penalty Points scheme, there was a statutory requirement to report accidents to the Licensing Authority. The Proprietor acknowledged that she was aware of the need to report accidents, but asked the Panel to consider the circumstances surrounding her oversight.

It was noted that the registration of the vehicle involved referred to in the Officer's report was incorrect and the year of registration should be "06" and not "08".

After considering the officer's report and representations made by the Proprietor, the Panel retired to consider its options and the evidence presented at the Hearing, and it was

**RESOLVED:**

The Panel has carefully considered the application by East Northamptonshire Council's Hackney Carriage and Taxi Licensing Section for the review of a Hackney Carriage Proprietor's Licence. The Licence Holder failed to report two accidents involving a Hackney Carriage operated by her company within the statutory 72 hours. The Proprietor had appealed against the award of 12 points to the Head of Environmental Services, but the appeal had been dismissed and the matter therefore was referred to the Panel.

In reaching its decision, the Panel had regard to:

- Government Guidance
- ENC Hackney Carriages/Byelaws (Terms and Conditions)
- Local Government (Miscellaneous Provisions) Act 1976

- ENC Penalty Points System for Hackney Carriage/Private Hire Vehicles, Proprietors, Operators
- Evidence given orally to the Panel
- Letters and emails exchanged between the Licence Holder and East Northamptonshire Council's Hackney Carriage and Taxi Licensing Section, and the insurance broker involved.

The Panel has reached the decision to issue a written warning to the Licence Holder. The Panel have come to the conclusion that the incidents are not serious enough to warrant revocation or suspension of the licence. However, they wish to impress upon the Licence Holder that a repetition of any of the offences listed in the ENC Policy may well be viewed more seriously by a future Panel.

The 12 points that had been accumulated will henceforth be regarded as spent.

The Panel had regard to the circumstances of the accidents. In particular, they gave weight to the fact that neither accident was caused by any driver from the company. The Panel also gave weight to the fact that there were no passengers at the time of either incident and that the vehicle was immediately taken off the road and checked for road-worthiness.

The Panel also took into account the mitigating circumstance of the health of the Licence Holder.

**Chairman**